

HB 1888 -- Advocacy for Persons with Disabilities

Sponsor: Grisamore

This bill changes the laws regarding advocacy for persons with disabilities. The Office of Protection and Advocacy for Persons with Disabilities is established within the Office of Administration to protect and advocate for the rights of individuals with disabilities and developmentally disabled persons. The director of operations of the advocacy office will be appointed by the Governor, with the advice and consent of the Senate, and must be knowledgeable in the problems disabled individuals encounter or advocacy. The director will report to the Governor and the General Assembly, serve a six-year term, and act independently of the departments of Mental Health, Health and Senior Services, Social Services, and any other state department or agency that provides disability services.

Subject to appropriations, the advocacy office director can:

- (1) Purchase or contract for necessary services;
- (2) Receive and expend moneys from gifts, bequests, state appropriations, or grants;
- (3) Establish a statewide toll-free telephone information system to provide referral services for persons with disabilities;
- (4) Receive and investigate complaints made by or on behalf of persons with disabilities or any other interested person and to act as an advocate and initiate or fund legal actions to protect the rights of any person with a disability;
- (5) Request and receive information concerning a person with a disability with certain restrictions under specified procedures;
- (6) Coordinate and cooperate with other public and private agencies and enter into cooperative agreements for the furtherance of the rights of persons with disabilities;
- (7) Represent, appear, intervene in, or bring action on behalf of a person with a disability in any court proceeding on specified matters with the consent of the person or his or her parent or guardian;
- (8) Implement a case follow-up system;
- (9) Match the needs of persons with disabilities with programs and services available;

- (10) Develop and maintain a program of public education regarding the needs and rights of persons with disabilities;
- (11) Develop and maintain an individual advocacy service to investigate referred problems or complaints;
- (12) Receive, review, and make recommendations for state building code waivers;
- (13) Ensure that all aspects of state agency operations conform to federal protection and advocacy requirements for program independence and authority; and
- (14) Establish an Accessibility Advisory Board composed of members that can provide valuable insight, input, and advice on matters relating to accessibility.

The director must make a report to the appropriate state agency when he or she has reasonable cause to believe that a person with a disability is being or has been abused or neglected.

The advocacy office will have access to the information regarding the names and locations of persons with disabilities receiving state services, all written reports of abuse and neglect, and all current state required records regarding persons with disabilities. Any information obtained will be subject to specified disclosure restrictions and confidentiality requirements.

The advocacy office will have the authority to:

- (1) Have private communication with persons receiving state disabilities services, state employees, family members, and any treatment or service providers;
- (2) Have access to subpoena records held by any entity that provides state-funded disability services;
- (3) File any findings or reports of the director and issue recommendations regarding the disposition of an investigation relating to any person receiving state-funded disabilities services with the court, administrative hearing commission or tribunal, and the investigating agency;
- (4) File amicus curiae briefs on behalf of the interests of persons receiving state-funded disabilities services;
- (5) Initiate meetings with any state department or agency;
- (6) Take appropriate steps to see that persons with disabilities

are made aware of the services of the advocacy office;

(7) Apply for and accept grants, gifts, and funds to carry out the duties of the office; and

(8) Establish as needed, subject to appropriations, local panels to carry out the functions and duties of the office and address complaints in a timely manner.

The advocacy office must:

(1) Establish and implement procedures for receiving, processing, responding to, and resolving complaints made by or on behalf of persons with disabilities receiving state-funded services. The office has the authority to make the necessary inquiries and review relevant information and records as it deems necessary;

(2) Analyze and monitor the development and implementation of federal, state, and local laws, regulations, and policies regarding disability services and make recommendations to the department, courts, General Assembly, and Governor for appropriate changes. The advocacy office can make recommendations for changes in state or local regulations to the state or local agency;

(3) Inform persons with disabilities receiving state-funded services or their guardian or families of their state and federal rights and entitlements by distributing educational materials; and

(4) Submit annually a detailed report to the Governor, General Assembly, and Missouri Supreme Court of its activities and recommendations.

Any files maintained by the advocate program can only be disclosed at the director's discretion subject to certain restrictions. Any statement or communication made by the office relevant to a complaint received by the office will be absolutely privileged and the person will be immune from liability. Any representative of the office who violates the provisions regarding the release of privileged information will be guilty of a class A misdemeanor. The office cannot be required to testify in any court regarding confidential matters authorized under its authority unless required by court order. The director is authorized to enter into memorandums of understanding with state agencies regarding the disclosure and information sharing pursuant to federal laws without requiring written consent for the release of the information.

Any employee or unpaid volunteer of the office will be treated as a representative of the office and cannot be held liable for good faith performance of his or her duties and will be immune from liability. No reprisal or retaliatory action can be taken against any recipient or employee of the departments or courts for any communication made or information given to the office. Anyone who knowingly and willfully violates this provision will be guilty of a class A misdemeanor.

The bill changes the laws regarding the Governor's Council on Disability by authorizing the director of the advocacy office to designate a liaison to the council and requires the council to cooperate with the office to carry out the duties of the council.